

106TH CONGRESS
1ST SESSION

S. 787

To amend the Truth in Lending Act to enhance consumer disclosures regarding credit card terms and charges, to restrict issuance of credit cards to students, to expand protections in connection with unsolicited credit cards and third-party checks, and to protect consumers from unreasonable practices that result in unnecessary credit costs or loss of credit, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 13, 1999

Mr. SCHUMER (for himself and Mr. DURBIN) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To amend the Truth in Lending Act to enhance consumer disclosures regarding credit card terms and charges, to restrict issuance of credit cards to students, to expand protections in connection with unsolicited credit cards and third-party checks, and to protect consumers from unreasonable practices that result in unnecessary credit costs or loss of credit, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Consumer Credit Card
3 Protection Amendments of 1999”.

4 **SEC. 2. DISCLOSURES REGARDING MINIMUM MONTHLY**
5 **PAYMENTS.**

6 (a) IN GENERAL.—Section 127(a)(3) of the Truth in
7 Lending Act (15 U.S.C. 1637(a)(3)) is amended by insert-
8 ing before the period “, or the method of determining the
9 required minimum payment amount, if a minimum pay-
10 ment is required that is different from the amount of any
11 finance charge, and the charges or penalties, if any, that
12 may be imposed for failure by the obligor to pay the re-
13 quired finance charge or minimum payment amount”.

14 (b) REPAYMENT INFORMATION.—Section 127(b) of
15 the Truth in Lending Act (15 U.S.C. 1637(b)) is amended
16 by adding at the end the following:

17 “(11) In a clear and conspicuous manner, re-
18 payment information that would apply to the out-
19 standing balance of the obligor under the credit
20 plan, including—

21 “(A) the required minimum monthly pay-
22 ment on that balance, represented as both a
23 dollar figure and as a percentage of that
24 balance;

25 “(B) the number of months (rounded to
26 the nearest month) that it would take to pay

1 the entire amount of that current balance if the
 2 obligor pays only the required minimum month-
 3 ly payments, and if no further advances are
 4 made;

5 “(C) the total cost to the obligor, including
 6 interest and principal payments, of paying that
 7 balance in full if the obligor pays only the re-
 8 quired minimum monthly payments, and if no
 9 further advances are made; and

10 “(D) the following statement: ‘If your cur-
 11 rent rate of interest is a temporary introductory
 12 rate, your total costs may be higher.’”.

13 (c) MINIMUM PAYMENT AMOUNT.—Section
 14 127(c)(1)(A) of the Truth in Lending Act (15 U.S.C.
 15 1637(c)(1)(A)) is amended by adding at the end the fol-
 16 lowing:

17 “(v) MINIMUM PAYMENT AMOUNT.—
 18 The method for determining the required
 19 minimum payment amount to be paid for
 20 each billing cycle, and the charge or pen-
 21 alty, if any, to be imposed for any failure
 22 by the obligor to pay the required min-
 23 imum payment amount.”.

1 **SEC. 3. DISCLOSURE OF LATE PAYMENT DEADLINES AND**
 2 **PENALTIES.**

3 Section 127(b) of the Truth in Lending Act (15
 4 U.S.C. 1637(b)) is amended by adding at the end the fol-
 5 lowing:

6 “(12) If a charge is to be imposed due to the
 7 failure of the obligor to make payment on or before
 8 a required payment due date, the date that payment
 9 is due or, if different, the date on which a late pay-
 10 ment fee will be charged, shall be stated prominently
 11 in a conspicuous location on the billing statement,
 12 together with the amount of the charge to be im-
 13 posed if payment is made after such date.”.

14 **SEC. 4. WORLDWIDE WEB-BASED CREDIT CARD SOLICITA-**
 15 **TIONS.**

16 Section 127(c) of the Truth in Lending Act (15
 17 U.S.C. 1637(c)) is amended—

18 (1) by redesignating paragraphs (3), (4), and
 19 (5) as paragraphs (4), (5), and (8), respectively; and
 20 (2) by inserting after paragraph (2) the fol-
 21 lowing:

22 “(3) INTERNET BASED APPLICATIONS AND SO-
 23 LICITATIONS.—

24 “(A) IN GENERAL.—In any solicitation to
 25 open a credit card account for any person under
 26 an open end consumer credit plan using the

Internet or an interactive computer service, the person making the solicitation shall clearly and conspicuously disclose—

“(i) the information described in subparagraphs (A) and (B) of paragraph (1); and

“(ii) the disclosures described in paragraph (6).

“(B) FORM OF DISCLOSURE.—The disclosures required by subparagraph (A) shall be—

“(i) readily accessible to consumers in close proximity to the solicitation to open a credit card account; and

“(ii) updated regularly to reflect the current policies, terms, and fee amounts applicable to the credit card account.

“(C) DEFINITIONS.—For purposes of this paragraph—

“(i) the term ‘Internet’ means the international computer network of both Federal and non-Federal interoperable packet switched data networks; and

“(ii) the term ‘interactive computer service’ means any information service, system, or access software provider that

provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.”.

SEC. 5. DISCLOSURES RELATED TO “TEASER RATES”.

Section 127(c) (15 U.S.C. 1637(c)) is amended by inserting after paragraph (5) (as so redesignated by section 4 of this Act) the following:

“(6) ADDITIONAL NOTICE CONCERNING ‘TEASER RATES’.—

“(A) IN GENERAL.—An application or solicitation for a credit card for which a disclosure is required under this subsection shall contain the disclosure contained in subparagraph (B) or (C), as appropriate, if the application or solicitation offers, for an introductory period of less than 1 year, an annual percentage rate of interest that—

“(i) is less than the annual percentage rate of interest that will apply after the end of the introductory period; or

“(ii) in the case of an annual percentage rate that varies in accordance with an

1 index, is less than the current annual per-
2 centage rate under the index that will
3 apply after the end of such period.

4 “(B) FIXED ANNUAL PERCENTAGE
5 RATE.—If the annual percentage rate that will
6 apply after the end of the introductory period
7 will be a fixed rate, the application or solicita-
8 tion shall include the following disclosure: ‘The
9 annual percentage rate of interest applicable
10 during the introductory period is not the annual
11 percentage rate that will apply after the end of
12 the introductory period. The permanent annual
13 percentage rate will apply after [insert applica-
14 ble date] and will be [insert applicable percent-
15 age rate].’.

16 “(C) VARIABLE ANNUAL PERCENTAGE
17 RATE.—If the annual percentage rate that will
18 apply after the end of the introductory period
19 will vary in accordance with an index, the appli-
20 cation or solicitation shall include the following
21 disclosure: ‘The annual percentage rate of inter-
22 est applicable during the introductory period is
23 not the annual percentage rate that will apply
24 after the end of the introductory period. The
25 permanent annual percentage rate will be deter-

mined by an index, and will apply after [insert applicable date]. If the index that will apply after such date were applied to your account today, the annual percentage rate would be [insert applicable percentage rate].’.

“(D) CONDITIONS FOR INTRODUCTORY RATES.—If the annual percentage rate of interest that will apply during the introductory period described in subparagraph (A) is revocable or otherwise conditioned upon any action by the obligor, including any failure by the obligor to pay the minimum payment amount or finance charge or to make any payment by the stated monthly payment due date, the application or solicitation shall include disclosure of—

“(i) the conditions that the obligor must meet to retain the annual percentage rate of interest during the introductory period; and

“(ii) the annual percentage rate of interest that will apply as a result of the failure of the obligor to meet such conditions.

“(E) FORM OF DISCLOSURE.—The disclosures required under this paragraph shall be made in a clear and conspicuous manner, in a

1 form at least as prominent as the disclosure of
 2 the annual percentage rate of interest that will
 3 apply during the introductory period.”.

4 **SEC. 6. LIMIT ON INACTIVITY FEES.**

5 Section 127 of the Truth in Lending Act (15 U.S.C.
 6 1637) is amended by adding at the end the following:

7 “(h) LIMIT ON INACTIVITY FEES.—In the case of any
 8 credit card account under an open end consumer credit
 9 plan, a creditor may not impose a fee based on inactivity
 10 for the account during any period during which no ad-
 11 vances have been made, if the obligor maintains any out-
 12 standing balance and is charged a finance charge applica-
 13 ble to such balance.”.

14 **SEC. 7. ISSUANCE OF CREDIT CARDS TO UNDERAGE CON-**
 15 **SUMERS.**

16 Section 127(c) of the Truth in Lending Act (15
 17 U.S.C. 1637(c)) is amended by inserting after paragraph
 18 (6) (as added by section 5 of this Act) the following:

19 “(7) APPLICATIONS FROM UNDERAGE OBLI-
 20 GORS.—

21 “(A) PROHIBITION ON ISSUANCE.—No
 22 credit card may be issued to, or open end credit
 23 plan established on behalf of, any obligor who
 24 has not attained the age of 21, except in re-
 25 sponse to a written request or application to the

card issuer that meets the requirements of subparagraph (B).

“(B) APPLICATION REQUIREMENTS.—An application to open a credit card account by an individual who has not reached the age of 21 as of the date of submission of the application shall require—

“(i) the signature of the parent or guardian of that individual indicating joint liability for debts incurred by the consumer in connection with the account before the consumer has reached the age of 21; or

“(ii) submission by that individual of financial information indicating an independent means of repaying any obligation arising from the proposed extension of credit in connection with the account.”.

SEC. 8. PENALTIES FOR ON-TIME PAYMENT PROHIBITED.

Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end the following:

“(i) PENALTIES FOR ON-TIME PAYMENT PROHIBITED.—

“(1) IN GENERAL.—In the case of any credit card account under an open end consumer credit plan, no creditor may cancel an account, impose a

1 minimum finance charge for any period (including
2 any annual period), impose any fee in lieu of a min-
3 imum finance charge, or impose any other charge or
4 penalty with regard to such account or credit ex-
5 tended under such account solely on the basis that
6 any credit extended has been repaid in full before
7 the end of any grace period applicable with respect
8 to the extension of credit.

9 “(2) PAYMENT DUE DATES.—For purposes of
10 paragraph (1), a creditor shall be deemed to have
11 imposed a prohibited charge or penalty on an ac-
12 count under an open end consumer credit plan if the
13 creditor regularly transmits to the obligor of such
14 plan a statement for a billing cycle in which credit
15 has been extended under such plan that includes a
16 payment due date, as required by subsection (b)(9),
17 that—

18 “(A) is different from and in advance of—

19 “(i) the date by which payment would
20 have to be made for any credit extended
21 under such credit plan to avoid incurring a
22 finance charge that was disclosed to such
23 obligor pursuant to subsection
24 (c)(1)(A)(iii); or

1 “(ii) the actual date by which pay-
2 ment would otherwise have to be made to
3 avoid incurring a finance charge if cal-
4 culated on the same basis as the date by
5 which or the period within which any pay-
6 ment would have to be made to avoid in-
7 curring a finance charge that was disclosed
8 to such obligor pursuant to subsection
9 (c)(1)(A)(iii); and

10 “(B) has the purpose or effect of inducing
11 the obligor of such plan to transmit payment to
12 the creditor earlier than otherwise would be re-
13 quired to avoid incurring a finance charge.

14 “(3) SCOPE OF APPLICATION.—Paragraph (1)
15 may not be construed as—

16 “(A) prohibiting the imposition of any flat
17 annual fee which may be imposed on the con-
18 sumer in advance of any annual period to cover
19 the cost of maintaining a credit card account
20 during such annual period without regard to
21 whether any credit is actually extended under
22 such account during such period; or

23 “(B) otherwise affecting the imposition of
24 the actual finance charge applicable with re-
25 spect to any credit extended under such account

1 during such annual period at the annual per-
 2 centage rate disclosed to the consumer in ac-
 3 cordance with this title for the period of time
 4 during which any such credit is outstanding.”.

5 **SEC. 9. FREEZE ON INTEREST RATE TERMS AND FEES ON**
 6 **CANCELED CARDS.**

7 Section 127 of the Truth in Lending Act (15 U.S.C.
 8 1637) is amended by adding at the end the following:

9 “(j) FREEZE ON INTEREST RATE TERMS AND FEES
 10 ON CANCELED CARDS.—

11 “(1) ADVANCE NOTICE OF INCREASE IN INTER-
 12 EST RATE REQUIRED.—In the case of any credit
 13 card account under an open end consumer credit
 14 plan, no increase in any annual percentage rate of
 15 interest (other than an increase due to the expira-
 16 tion of any introductory percentage rate of interest,
 17 or due solely to a change in another rate of interest
 18 to which such rate is indexed) applicable to any out-
 19 standing balance of credit under such plan may take
 20 effect before the beginning of the billing cycle that
 21 begins not less than 15 days after the date on which
 22 the obligor receives notice of such increase.

23 “(2) INCREASE NOT EFFECTIVE FOR CANCELED
 24 ACCOUNTS.—If an obligor referred to in paragraph
 25 (1) cancels the credit card account before the begin-

1 ning of the billing cycle referred to in paragraph
2 (1)—

3 “(A) an annual percentage rate of interest
4 applicable after the cancellation with respect to
5 the outstanding balance on the account as of
6 the date of cancellation may not exceed any an-
7 nual percentage rate of interest applicable with
8 respect to that balance under the terms and
9 conditions in effect before the increase referred
10 to in paragraph (1); and

11 “(B) the repayment of the outstanding
12 balance after the cancellation shall be subject to
13 all other terms and conditions applicable with
14 respect to the account before the increase re-
15 ferred to in such paragraph.

16 “(3) NOTICE OF RIGHT TO CANCEL.—The no-
17 tice referred to in paragraph (1) with respect to an
18 increase in any annual percentage rate of interest
19 shall be made in a clear and conspicuous manner,
20 and shall contain a brief statement of the right of
21 the obligor—

22 “(A) to cancel the account before the effec-
23 tive date of the increase; and

24 “(B) after any such cancellation, to pay
25 any balance outstanding on the account at the

1 time of cancellation, in accordance with the
 2 terms and conditions in effect before the can-
 3 cellation.”.

4 **SEC. 10. DISCLOSURE OF INTEREST RATES AND FEES ON**
 5 **CREDIT ADVANCES THROUGH THIRD-PARTY**
 6 **CHECKS.**

7 Section 127 of the Truth in Lending Act (15 U.S.C.
 8 1637) is amended by adding at the end the following:

9 “(k) FEES AND INTEREST RATES ON CREDIT AD-
 10 VANCES THROUGH THE USE OF THIRD-PARTY
 11 CHECKS.—

12 “(1) IN GENERAL.—In the case of any credit
 13 card account under an open end consumer credit
 14 plan, a creditor may not provide the obligor with any
 15 negotiable or transferable instrument for use in
 16 making an extension of credit to the obligor for the
 17 purpose of making a transfer to a third party, unless
 18 the creditor has fully satisfied the notice require-
 19 ments of paragraph (2) with respect to such instru-
 20 ment.

21 “(2) NOTICE REQUIREMENTS.—A creditor sat-
 22 isfies the notice requirements of this paragraph with
 23 respect to an instrument referred to in paragraph
 24 (1) if the creditor provides to an obligor, at the same

1 time at which any such instrument is provided, a
 2 notice that prominently and specifically describes—

3 “(A) the amount of any transaction fee
 4 that may be imposed for making an extension
 5 of credit through the use of such instrument,
 6 including the exact percentage rate to be used
 7 in determining such amount if the amount of
 8 the transaction fee is expressed as a percentage
 9 of the amount of the credit extended; and

10 “(B) any annual percentage rate of inter-
 11 est applicable in determining the finance charge
 12 for any such extension of credit, if different
 13 from the finance charge applicable to other ex-
 14 tensions of credit under such account.”.

15 **SEC. 11. PROHIBITION ON OVER-THE-LIMIT FEES FOR**
 16 **CREDITOR-APPROVED TRANSACTIONS.**

17 Section 127 of the Truth in Lending Act (15 U.S.C.
 18 1637) is amended by adding at the end the following:

19 “(1) LIMITATION ON IMPOSITION OF OVER-THE-
 20 LIMIT FEES.—In the case of any credit card account
 21 under an open end consumer credit plan, a creditor may
 22 not impose any fee on the obligor for any extension of
 23 credit in excess of the amount of credit authorized to be
 24 extended with respect to such account, if the extension of
 25 credit is made in connection with a credit transaction that

1 the creditor approves in advance or at the time of the
2 transaction.”.

3 **SEC. 12. UNSOLICITED DUAL-PURPOSE CARDS.**

4 Section 132 of the Truth in Lending Act (15 U.S.C.
5 1642) is amended—

6 (1) by inserting “(a) IN GENERAL.—” before
7 “No”; and

8 (2) by adding at the end the following:

9 “(b) CERTAIN CARDS INCLUDED.—For purposes of
10 this section, the term ‘credit card’ includes any dual pur-
11 pose or multifunction card, including a stored-value card,
12 debit card, check card, check guarantee card, or purchase-
13 price discount card, that is connected with an open end
14 credit plan and can be used, either on issuance or upon
15 later activation, to obtain credit directly or indirectly.”.

16 **SEC. 13. CIVIL LIABILITY.**

17 Section 130(a) of the Truth in Lending Act (15
18 U.S.C. 1640(a)) is amended in the undesignated para-
19 graph following paragraph (4)—

20 (1) in the second sentence, by striking “or
21 (10)” and inserting “(10), (11), or (12)”; and

22 (2) by striking the third sentence.

23 **SEC. 14. REGULATIONS.**

24 Not later than 6 months after the date of enactment
25 of this Act, the Board of Governors of the Federal Reserve

1 System (hereafter in this section referred to as the
2 “Board”) shall—

3 (1) issue final regulations to implement the
4 amendments made by this Act; and

5 (2) issue such staff commentary or publish such
6 model disclosure statements and forms as the Board
7 considers necessary—

8 (A) to carry out the intent of the amend-
9 ments made by this Act;

10 (B) to implement any initiative to prevent
11 the circumvention of any of the amendments
12 made by this Act; and

13 (C) to facilitate compliance with the re-
14 quirements in the amendments made by this
15 Act.

○